

REMARKS

This application has been carefully considered in connection with the Examiner's Action. Reconsideration and allowance are respectfully requested in view of the following.

Claims 1 and 8 have been amended in a manner which more clearly describes how Applicant's invention is distinguishable over the prior art. Claims 9 and 28 have been rewritten in independent form incorporating all of the limitations of the base and any intervening claims. Claims 31 and 32 have been amended to correct minor informalities therein. Claim 32 has been further amended to correct the dependency thereof. Finally new Claims 36, 37 and 38, all of which are directed to further embodiments of the invention neither taught nor suggested by the prior art, have been added.

Claim 32 stands objected to as being dependent on canceled Claim 13. The undersigned kindly thanks the Examiner for calling his attention to this inadvertent error and has amended Claim 32 to depend on Claim 12, the claim on which the Applicant originally intended that Claim 32 depend therefrom. Furthermore, as Claim 12 has been allowed by the Examiner, the Applicant respectfully submits that Claim 32, as above amended, is now in condition for allowance. Accordingly the Applicant respectfully requests the reconsideration and withdrawal of the objection to Claim 32 and the allowance of the claim.

Claims 9-10 and 28-30 stand objected to as being dependent on a rejected base claim but would be allowable if rewritten in independent form including all the limitations of the base, and any intervening, claims. In response, the Applicant has rewritten Claims 9 and 28 as independent Claims which incorporate all of the limitations of the base, and any intervening, claims. Further, in that Claim 10 depends on newly independent Claim 9 and that Claims 29-30 depend on newly independent Claim 28, the Applicant respectfully requests the reconsideration and withdrawal of

the objection to Claims 9-10 and 28-30 and the allowance of these claims.

Claims 1-4, 6-8, 11 and 24-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,398,166 to Winchel and Claim 5 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Winchel. In response, the Applicant respectfully traverses the various rejections of Claims 1-8, 11 and 24-27 and instead submits that Claims 1-8, 11 and 24-27, as above amended, as well as newly added Claims 36-38, are neither taught nor suggested by the cited art. Accordingly, the Applicant respectfully requests the reconsideration and withdrawal of the rejection of Claims 1-8, 11 and 24-27 and the allowance of Claims 1-8, 11, 24-27 and 36-38.

The Examiner cites U.S. Patent No. 1,398,166 to Winchel as either anticipating and/or rendering obvious Claims 1-8, 11 and 24-27. The Applicant respectfully disagrees. More specifically, Winchel discloses a whirling seesaw configured for “sustaining the seats, at the opposite ends of the rocking element, in constant horizontal position.” *Winchel*, col. 1, lines 32-34 (emphasis added by Applicant). In contrast, the support structure described in the specification and claimed in Claims 1-7, 11 and 24-27, as well as newly added Claims 36-38, is patentably distinct over the structure disclosed in Winchel in that the claimed support structure defined by Claims 1-7, 11, 24-27 and 36-38 is configured such that, in a first position, both a first platform and a rail member are generally parallel to the surface and, in a second position, the first platform and the rail member are either both inclined relative to the surface or both declined relative to the surface. In contrast, Winchel specifically teaches that in both the first position and the second position, the first platform is generally parallel to the surface. Accordingly, as the support structure disclosed and claimed by the Applicant and the structure disclosed in Winchel clearly function differently, the Applicant respectfully submits that Claims 1-7, 11, 24-27 and 36-38 are distinguishable over the cited art. For this reason, the Applicant respectfully requests the reconsideration and

withdrawal of the rejection of Claims 1-7, 11 and 24-27 and the allowance of Claims 1-7, 11, 24-27 and 36-38.

While not identical to the support structure defined by Claims 1-7, 11, 24-27 and 36-38, the support structure defined by Claim 8 is similarly distinguishable over the cited art. More specifically, the support structure defined by Claim 8 is patentably distinct over the structure disclosed in Winchel in that the claimed support structure defined by Claim 8 is configured such that, in a first position, a first platform is generally parallel to the surface and, in a second position, the first platform and the exercise machine are either both inclined relative to the surface or both declined relative to the surface. In contrast, Winchel specifically teaches that in both the first position and the second position, the first platform is generally parallel to the surface. Accordingly, as the support structure disclosed and claimed by the Applicant and the structure disclosed in Winchel clearly function differently, the Applicant respectfully submits that Claim 8 is distinguishable over the cited art. For this reason, the Applicant respectfully requests the reconsideration and withdrawal of the rejection of Claim 8 and the allowance of the claim.

For all of the above reasons, the Applicant respectfully submits that Claims 1-12 and 24-38 are patentably distinguishable over the art of record. Accordingly, the Applicant respectfully requests that the Examiner reconsider and withdraw the various objections to and/or rejections of Claims 1-11, 24-30 and 32 set forth in the Office Action dated December 14, 2005 and supplement the prior allowance of Claims 12, 31 and 33-35 with the allowance of Claims 1-11, 24-30, 32 and 36-38.

This application is now in condition for allowance. A prompt Notice to that effect is, therefore, earnestly solicited.

The Applicant encloses herewith a check to cover the extension of time and excess claim fees associated with this response. While it is believed that there are no other fees due in connection with this communication, in the event that additional fees are due, the Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-1515, Conley Rose, P.C.

Respectfully submitted,

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